

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Sprint Local Telephone Companies)	
Tariff FCC No. 3)	WCB/Pricing No. 02-10
Transmittal No. 192)	
)	

Order

Adopted: April 18, 2002

Released: April 18, 2002

By the Chief, Pricing Policy Division:

I. INTRODUCTION

1. In this order we suspend for five months and set for investigation Sprint Local Telephone Companies (Sprint) Tariff FCC No. 3, Transmittal No. 192. This transmittal seeks to establish rate increases, over a two-year period, to recover extraordinary costs associated with the implementation of thousands-block number pooling.

II. BACKGROUND

2. In its Number Resource Optimization *Third Report and Order*,¹ the Commission sought to build on its efforts to ensure continued efficient use of the limited numbering resources of the North American Numbering Plan (NANP) so that these resources do not exhaust prematurely. In addition, the Commission sought to ensure that all carriers have the numbering resources necessary to compete in the telecommunications marketplace. The *Third Report and Order* specifically addressed the federal cost recovery for national thousands-block number pooling. The Commission concluded that many of the costs associated with thousands-block number pooling are ordinary costs for which no additional special recovery would be appropriate. The Commission also addressed specific cost recovery provisions for price cap local exchange carriers.

3. On April 4, 2002, Sprint filed Transmittal No. 192, revising Tariff FCC No. 3, with a scheduled effective date of April 19, 2002. On April 11, 2002, WorldCom, Inc.

¹ *Numbering Resource Optimization*, CC Docket Nos. 96-98 and 99-200, Third Report and Order and Second Order on Reconsideration, 17 FCC Rcd 252 (2001)(*Third Report and Order*).

(WorldCom) filed a petition to reject or, in the alternative, suspend and investigate the Sprint tariff.² AT&T Corp. (AT&T) filed its petition seeking similar relief on April 11, 2002.³ Sprint filed its reply to the petitions of AT&T and WorldCom on April 15, 2002.⁴

4. AT&T asserts that Sprint claimed costs excluded by Commission rules or otherwise inappropriate for exogenous cost recovery.⁵ AT&T further argues that Sprint failed to demonstrate that thousands-block number pooling results in a net cost increase.⁶ WorldCom, in its petition, raises arguments similar to those raised by AT&T.⁷ In its reply, Sprint claims that it seeks only exogenous treatment of allowable costs⁸ and that it has demonstrated that thousands-block number pooling results in a net cost increase.⁹

III. DISCUSSION

5. The *Third Report and Order* provides that any adjustment to price caps resulting from the Commission's thousands-block number pooling mandates shall be made as a claim for extraordinary exogenous adjustment. That order further states that LECs seeking extraordinary recovery of thousands-block number pooling costs in the form of an exogenous adjustment to their price cap formula must overcome a rebuttable presumption that no additional recovery is justified.¹⁰ This requirement places a relatively high burden on the carriers to demonstrate that costs incurred by implementing thousands-block number pooling, as discussed in the order, exceed the savings. Part of this burden includes justifying the carriers' cost savings calculation in a manner consistent with the discussions of those savings in the *Third Report and Order* and in preceding orders in the docket. Furthermore, the *Third Report and Order* provides substantial discussion and detail concerning the nature of the showings required and the issues that must be resolved to result in a carrier's rebutting the stated presumption.

6. In particular, the *Third Report and Order* states that, "[t]o qualify for an exogenous adjustment, carriers must show that the costs for which extraordinary treatment is

² Petition of WorldCom, Inc., filed April 11, 2002 ("WorldCom Petition").

³ Petition of AT&T Corp., filed April 11, 2002. AT&T filed two versions of its petition – a "Redacted-Public Version" and a version marked "Confidential Information Included pursuant to Protective Order" ("AT&T Petition").

⁴ Reply of Sprint Local Telephone Companies, filed April 15, 2002 ("Sprint Reply").

⁵ AT&T Petition at 4-16.

⁶ *Id.* at 16-22.

⁷ WorldCom Petition at 2-4.

⁸ Sprint Reply at 4-9.

⁹ *Id.* at 9-11.

¹⁰ *Third Report and Order*, 17 FCC Rcd at 271.

sought exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay or other numbering relief that would otherwise have been required in the absence of pooling.”¹¹ That order also discusses and raises issues that must be addressed to support a showing that costs exceed cost savings. For example, the Commission stated:

Unlike other mandates of the Commission, thousands-block number pooling may reduce network costs. Some commenters argued that savings associated with thousands-block number pooling are speculative or *de minimis*. Others argue that implementation of thousands-block number pooling will save substantial costs over current area code relief practices and could result in a cost savings. In the absence of carrier-specific evidence, we do not endorse either line or argument. However, as the Commission has already observed, to the extent that thousands-block number pooling postpones or avoids area code relief and ultimately the replacement of the existing NANP, all carriers and subscribers will benefit.¹²

7. We find that Sprint’s thousands-block number pooling transmittal raises substantial questions of lawfulness and warrants an investigation of this tariff.¹³ These questions include, but are not limited to, the following: whether Sprint has adequately demonstrated that its cost to implement thousands-block number pooling exceeds the cost savings as addressed in the *Third Report and Order*; whether all operations support systems (OSS) costs claimed by Sprint are eligible for recovery; and whether Sprint’s Number Provisioning Administration Center (NPAC) cost analysis is unreasonable. We further find that the petitions of AT&T and WorldCom raise questions of lawfulness similar to those identified above, and further support the suspension and investigation of Sprint’s Transmittal No. 192.

8. After reviewing the transmittal, petitions, and reply, we conclude that Sprint’s Transmittal No. 192 raises substantial questions of lawfulness warranting suspension and investigation. Sprint has not provided sufficient cost justification and other support to permit a full assessment of the reasonableness of the proposed charges. As proposed, Sprint does not meet its burden of proof necessary to rebut the Commission’s presumption that no additional recovery is justified.

9. We therefore suspend Sprint’s Transmittal No. 192, in its entirety, for five months and set it for investigation. The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but may not be limited to, the issues identified in this order.

IV. *EX PARTE* REQUIREMENTS

10. This investigation is a permit-but-disclose proceeding and subject to the

¹¹ *Id.* at 271-272.

¹² *Id.* (footnotes omitted).

¹³ 47 U.S.C. § 204(a).

requirements of section 1.1206(b) of the rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.¹⁴ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) of the Commission's rules.

V. ORDERING CLAUSES

11. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 204(a), and through the authority delegated pursuant to sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91 and 0.291, the revisions filed by Sprint Local Telephone Companies under Transmittal No. 192, ARE SUSPENDED for five months and an investigation IS INSTITUTED.

12. IT IS FURTHER ORDERED that Sprint Local Telephone Companies SHALL FILE a supplement within five business days from the release date of this order reflecting the suspension. The carrier should cite the "DA" number on the instant order as the authority for the filing.

13. IT IS FURTHER ORDERED that AT&T Corp.'s petition to reject or to suspend and investigate Sprint Local Telephone Companies Tariff FCC No. 3, Transmittal No. 192, and WorldCom Inc.'s petition to reject or, in the alternative, to suspend and investigate Sprint Local Telephone Companies Tariff FCC No. 3, Transmittal No. 192, ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss
Chief, Pricing Policy Division
Wireline Competition Bureau

¹⁴ See 47 C.F.R. § 1.1206(b)(2), as revised.